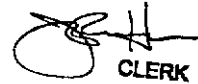


UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

FILED

APR 03 2009


CLERK

JAMES H. ARCHAMBAULT,)	CIV. 09-5018-RHB
)	
Petitioner,)	
)	
vs.)	ORDER
)	
DOUGLAS WEBER,)	
Warden, S.D. State Penitentiary,)	
)	
Respondent.)	

Petitioner applied for habeas relief pursuant to 28 U.S.C. § 2241. Docket #1. Because petitioner is a person in custody pursuant to the judgment of a state court, this Court characterized his petition as one arising under 28 U.S.C. § 2254. See Crouch v. Norris, 251 F.3d 720 (8th Cir. 2001). In an Order issued on February 20, 2009, Petitioner's writ was dismissed as a successive petition, which is barred by 28 U.S.C. § 2244(b)(1). Docket #3.

Petitioner now comes with a motion for leave to approve nine months credit for time served. Docket #6. The basis for relief raised in petitioner's motion is a new one, different from the argument raised in this case or in his previous federal habeas action, CIV. 07-5087. The federal habeas statute, 28 U.S.C. § 2254(b)(1)(A), requires petitioner to exhaust his state court remedies prior to seeking relief in the federal courts, which he has not done with respect to the issue raised in his latest motion. Plaintiff may not seek habeas relief relating to

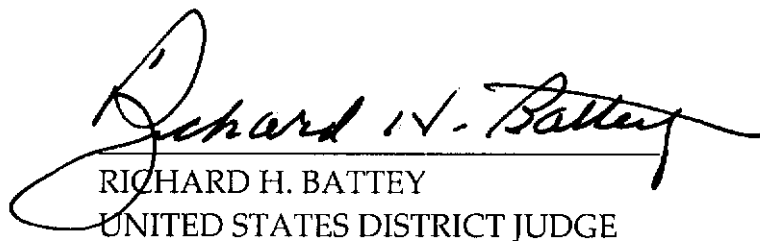
this claim in the federal courts until he has fully exhausted his state-court remedies.

Accordingly, it is hereby

ORDERED that petitioner's motion for leave to approve nine months credit for time served (Docket #6) is denied.

Dated this 9th day of ~~March~~ APRIL, 2009.

BY THE COURT:


RICHARD H. BATTEY
UNITED STATES DISTRICT JUDGE